BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

MARC A BAUDER, M.D.

In the State of Arizona.

Holder of License No. 15235

For the Practice of Medicine

Case No. MD-18-0457A, MD-18-0909A, MD-19-0361A

ORDER FOR SURRENDER OF LICENSE AND CONSENT TO THE SAME

Marc A Bauder, M.D. ("Respondent"), elects to permanently waive any right to a hearing and appeal with respect to this Order for Surrender of License; admits the jurisdiction of the Arizona Medical Board ("Board") as well as the facts stated herein; and consents to the entry of this Order by the Board.

FINDINGS OF FACT

- 1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.
- 2. Respondent is the holder of license number 15235 for the practice of allopathic medicine in the State of Arizona.

MD-18-0457A

- 3. The Board initiated case number MD-18-0457A after receiving a complaint alleging that Respondent was advertising cash-only Suboxone treatment online.
- 4. Based on the complaint, Board staff requested Medical Consultant ("MC") review of Respondent's care and treatment of patients receiving medication assisted treatment for opioid use disorders.
- 5. Between June, 2017 and October, 2018 Respondent prescribed Patient MG Buprenorphine 32 mg per day, and Alprazolam 1 mg 4-5 times per day, as well as clonazepam.

- 6. Between December, 2017 and July, 2018 Respondent prescribed Patient PL Buprenorphine in doses ranging in 28-44 mg per day.
- 7. The MC opined that Respondent deviated from the standard of care by prescribing Buprenorphine in excess of the therapeutic window of up to 24 mg per day, and by prescribing Buprenorphine without Naloxone outside a clinical setting where his patients could be observed taking the medication without adequate justification.
- 8. The MC identified potential patient harm to both patients in that MG and PL were both at risk of diversion, overdose and death. Respondent denied that there was substantial risk to these patients.

MD-18-0909A

- 9. The Board initiated case MD-18-0909A, after receiving a complaint regarding Respondent's care and treatment of Patient JT.
- 10. JT a 45 year-old male patient with history of bilateral SI ligament tears established care with Respondent on November 30, 2017. Respondent initiated treatment with Ketamine/Oxytocin 150 mg/100IU/ml nasal spray.
- 11. During the course of his treatment, Respondent continued to prescribe JT Ketamine HCL for depression, dysthymia and chronic neuropathic pain, along with intermittent prescriptions for testosterone Cyprionate. JT was also receiving prescriptions for dextroamphetamine from another provider. Respondent provided JT with a number of early refills for his Ketamine HCL, and identified concerns that JT was misusing his Ketamine prescription, and may have been selling his dextroamphetamine medications.
- 12. Respondent states that a number of early Ketamine refills were provided because the medication precipitated after being compounded, and was unable to be used. Respondent further states that the pharmacist who filled JT's prescriptions required him to exchange the unused portion of the medication before a refill was provided.

- 13. Additionally, Respondent had a social and business relationship with JT.
- 14. The MC opined that Respondent deviated from the standard of care by failing to identify red flag behaviors indicating abuse and diversion, failing to address concurrent mental health issues, and by failing to maintain proper physician/patient boundaries. The MC also opined that Respondent's documentation was inadequate.
- 15. Actual patient harm was identified by the Board's MC in that Respondent's prescribing facilitated abuse of Ketamine, and JT was at risk of overdose and diversion. Respondent denies that his prescribing promoted abuse of prescribed medications and notes that the patient maintained sobriety from opiates for a year while under Respondent's care.

MD-19-0361A

- 16. The Board initiated case MD-19-0361A after receiving a complaint from a pharmacist identifying concerns regarding recent prescriptions for opioids written to a new patient ("JS").
- 17. Patient JS, a 63 year-old female, established care with Respondent in April, 2019. Respondent issued JS a prescription for Morphine sulphate ER 60 #90 dated April 7, 2019 and a prescription for oxycodone 15 mg #150 dated April 8, 2019. JS presented to the pharmacy on April 9, 2019 attempting to fill both prescriptions. When the pharmacist attempted to contact Respondent for direction on which prescription to fill, she noted that Respondent's voicemail stated that he was on holiday out of the country and would be available to patients via text message and WhatsApp. Based on her inability to contact Respondent, the pharmacist refused to fill the prescription.
- 18. During the course of the Board's investigation, Respondent stated that he examined JS in her home on March 28, 2019 before he left the country. In his responsive narrative, Respondent also stated that he does not maintain an office space, but sees

patients in their place of residence, and at times, other public locations such as lounges, restaurants or conference rooms. Respondent provided Board staff with travel itineraries to establish that he was in Arizona at the time he saw JS. However, Respondent's travel itineraries also established that Respondent prescribed medications to patients on dates Respondent was out of the country. During the Board's investigation, Respondent stated that he was available to patients via WhatsApp and texts during these times.

- 19. The MC who reviewed Respondent's care and treatment of JS opined that Respondent deviated from the standard of care by failing to adequately evaluate the patient's pain history and functional status, failing to properly assess the patients potential past or present substance abuse, by prescribing JS opioid morphine milligram equivalents ("MME") per day of over 292 without adequately documented discussion of the risks of overdose, respiratory depression and death and without offering a prescription for naloxone. Respondent noted that he maintained JS at her previously prescribed dosage of medication.
- 20. Additionally, the MC opined that Respondent's decision to manage a virtual pain management practice in the manner described by Respondent is also below the standard of care, fails to comply with HIPAA standards, and endangers patient safety. The MC opined that Respondent's failure to appropriately screen JS also placed her at high risk of patient harm.

Prior Board History

21. Respondent's prior Board history includes a Consent Agreement for License Reactivation and Probation in case MD-02-L088. Respondent subsequently entered into a Consent Agreement for Decree of Censure in MD-04-1506 and MD-05-0170 arising out alleged violations of Respondent's Board Order. Additionally, in case MD-09-1440A, Respondent was issued a non-disciplinary Order for Continuing Medical Education

requiring him to complete an intensive, in-person controlled substance prescribing course for inappropriate prescribing of narcotics containing acetaminophen in violation of A.R.S. § 32-1401(27)(q) (now § 32-1401(27)(r)). Respondent complied with this Order.

- 22. Based on the foregoing information, on January 23, 2020, the Board voted to summarily suspend Respondent's Arizona medical license.
- 23. Respondent states that believes that his medical record documentation is appropriate. Respondent has requested to surrender his Arizona medical license subject to the ability to reapply in five (5) years from the Effective Date of this Order pursuant to A.R.S. § 32-1458.

CONCLUSIONS OF LAW

- The Board possesses jurisdiction over the subject matter hereof and over Respondent.
- 2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(e) ("Failing or refusing to maintain adequate records on a patient.").
- 3. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(r) ("Committing any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.").
- 4. The Board possesses statutory authority to enter into a consent agreement with a physician and accept the surrender of an active license from a physician who admits to having committed an act of unprofessional conduct. A.R.S. § 32-1451(T)(2).

ORDER

IT IS HEREBY ORDERED THAT Respondent immediately surrender License Number 15235, issued to Marc A, Bauder, M.D., for the practice of allopathic medicine in the State of Arizona, and return his certificate of licensure to the Board.

DATED and effective this _______, 2020.

ARIZONA MEDICAL BOARD

Bv:

Patricia E. McSorley Executive Director

CONSENT TO ENTRY OF ORDER

- 1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.
- 2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.
- 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.
- 4. The Order is not effective until approved by the Board and signed by its Executive Director.
- 5. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended

or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or

- Upon signing this agreement and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke the consent to the entry of the Order. Respondent may not make any modifications to the document. Any modifications to this original document are ineffective and void unless mutually approved
- This Order is a public record that will be publicly disseminated as a formal disciplinary action of the Board and will be reported to the National Practitioner's Data Bank and on the Board's web site as a disciplinary action.
- If the Board does not adopt this Order, Respondent will not assert as a defense that the Board's consideration of the Order constitutes bias, prejudice,
 - Respondent has read and understands the terms of this agreement.

MARQA. BAUDER, M.D.	Dated:	4/22/2021)	
MARCA. BAUDER, M.D.		1/	SOUTHWEST
EXECUTED COPY of the foregoing mailed by			

2020 with:

The Arizona Medical Board 1740 West Adams, Suite 4000 Phoenix, Arizona 85007

ulle Hobbes Board staff

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